

RECEIVED

APR - 7 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Section 9
of the Communications Act

MD Docket No. 94-19

Assessment and Collection of
Regulatory Fees for the 1994
Fiscal Year

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of Sprint Cellular Company, Sprint Communications Company, L.P., and the United and Central Telephone companies, hereby submits its comments on the above-referenced Notice of Proposed Rulemaking ("NPRM").¹ The NPRM sets forth proposed rules to implement certain provisions of Section 9(a) of the 1993 Budget Act ("the Act" or "the statute"), which in turn authorizes the Commission to assess and collect annual regulatory fees.²

I. SUMMARY

Sprint endorses the Commission's proposal for three classes of fees -- standard, large, and small -- to facilitate the statutory requirement that installment payments be permitted

1. In the Matter of Implementation of Section 9 of the Communications Act; Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, MD Docket No. 94-19, Notice of Proposed Rulemaking, released March 11, 1994.

2. Id. at para. 1.

No. of Copies rec'd
List A B C D E

4

for large fees, and advance payment for a number of years be required for small fees. Sprint believes, however, that the Commission should establish benchmarks for the large classification that more realistically reflect the burdens imposed on regulatees than do the benchmarks proposed in the NPRM. Further, Sprint recommends that the relevant data for regulatory fees be based on measurements obtained for a fixed and uniformly applicable date. Finally, Sprint agrees with the Commission's assessment that the fee amounts set forth in the Schedule of Regulatory Fees, which were approved in the Act, should be adopted for the payments due in fiscal year 1994.

II. THE FEE AMOUNTS SET FORTH IN THE STATUTORY SCHEDULE OF REGULATORY FEES SHOULD BE ADOPTED FOR FY 1994

Under the statute, the Commission is given latitude to revise the Schedule of Regulatory Fees in order to ensure that the total payments collected are adequate to fund the portion of Commission functions and activities to which the fees are dedicated.³ However, as the NPRM states, "[a]djustments to the statutory schedule, required under paragraph (b)(2) [of the Act] may not take place until after the 1994 fiscal year, and thus [the Commission does] not have authority during the current fiscal year to revise the schedule for...the current fiscal

3. Id. at para. 4

year." ⁴ (Emphasis added.) Further, the NPRM takes pains to conclude that, because of all the requirements attendant to amending the fees, Congress must have intended the fee schedule prescribed in the Act to be imposed at the outset, i.e. in fiscal year 1994. ⁵

Sprint agrees that the Commission has reached the only tenable conclusion: that the statutory fee schedule was intended to set the initial fees. Therefore the fee amounts set forth therein should be adopted for fiscal year 1994 payments.

**III. CLASSES OF REGULATORY FEES SHOULD BE ESTABLISHED
THAT REALISTICALLY REFLECT THE FINANCIAL BURDENS
IMPOSED ON REGULATEES**

Section 9(f) of the Act requires the FCC to adopt rules that "permit payment by installments in the case of fees in large amounts, and in the case of fees in small amounts, shall require the payment of the fee in advance for a number of years...." ⁶ Accordingly, the Commission proposes to establish three classes of fees -- standard, large and small. A regulatee whose annual fee in a particular fee category is deemed "large" would have the option of making two installment payments in FY 1994 (and the NPRM seeks comment on a system of four installment payments in

4. Id. at para. 7

5. Id. at paras. 6-9.

6. 47 U.S.C. § 159 (f)(1).

future years). Regulatees subject to fees deemed "small" would be required to pay their fees for the term of the license at the beginning of the license term. All remaining fees would be classified as "standard," and would be payable in full on an annual basis.

Sprint believes that the reason Congress authorized installment payments for payors of large fees was to mitigate the financial burden on such entities. However, the Commission has proposed an inappropriate benchmark to define a "large" fee -- i.e. if the fee "greatly exceeds the average annual fee for regulatees in a particular category." ⁷ The Commission has identified two types of common carriers that may be defined as large payors: interexchange carriers (IXCs) and local exchange company (LEC) holding companies whose annual fees for a particular category exceed \$500,000 and \$700,000, respectively.

Sprint believes that the Commission's premise for determining "large" fees and the consequent benchmark figures that it proposes to qualify payors for such installment payments would disqualify a number of payors who will nonetheless incur a substantial financial burden from the imposition of regulatory fees. In fact, under the proposed rules all but three IXCs, all but eight LEC holding companies and all mobile common carriers

7. Notice at para. 29.

would be barred from paying their regulatory fees in installments. When assessing a company's financial burden, however, it should be remembered that the fee rate for all common carriers as applied to their customer base is identical -- \$60 for each 1000 -- measured in number of presubscribed access lines for an IXC, access lines for a LEC, or subscribers for a mobile service provider.

The payment requirement for Sprint is a good example of the anomaly that would result if the Commission's above proposal were adopted. Sprint's total fee obligation for FY 1994 is a substantial \$1 million. However, under the proposed rules only slightly more than half (the amount that would be calculated based on the presubscribed access lines for Sprint Communications Co., L.P., its IXC business unit) qualifies as "large" and could be paid in installments. By contrast, the corresponding customer-based fees for Sprint's other business units -- which include the nation's ninth largest LEC and eighth largest cellular provider -- would be payable in full on an annual basis. Not only is the total of these combined fees substantial (over \$400,000), but the financial burden to Sprint is comparable to the fee burden of its installment payment-eligible IXC business unit.

Sprint believes the Commission should endeavor to set benchmarks, for particular common carrier categories within the

"large" classification (e.g. IXC, LEC holding company, mobile services provider), that will result in a more equitable application of the installment payment privilege. If this method is adopted, Sprint believes that a benchmark of \$250,000 in annual fee obligation per service category should qualify as a "large" fee.

The NPRM further asks for comments on the establishment of a four-installment system following the 1994 fiscal year. Sprint supports this proposal, since it will further ease the financial burden on regulatees.

IV. A UNIFORM DATE SHOULD BE ESTABLISHED FOR THE ACCOUNTING OF THE RELEVANT DATA ON WHICH REGULATORY FEES ARE BASED

Sprint recommends that the FCC establish a date certain -- preferably the first day of the fiscal year for which annual fees are due -- for the measurement of the relevant data (number of licenses, antennas, access lines, subscribers, etc.) on which regulatory fees are computed. The selection of a uniform date for the accounting of all data would ensure equal treatment of all payors. The first day of the fiscal year is a logical choice, since the fees would be assessed for that fiscal year and would come due sometime during the following 12 months. A comparable situation exists at the state level. All states establish a "lien date" on which property ownership is assessed for tax purposes. Taxable property owned on the lien date

(typically the first day of the year for taxes paid on a calendar year basis) is the base used for calculating the taxes due.

For the regulatory fees due in FY 1994, the data would be counted as of the first day of the 1994 fiscal year -- October 1, 1993.

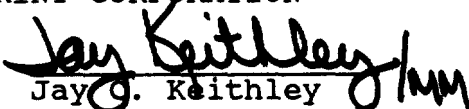
V. CONCLUSION

Sprint supports the Commission's proposal to create three regulatory fee classifications, but for the foregoing reasons strongly recommends that the "large" classification be significantly amended to realistically reflect the financial burdens imposed on regulatees. Sprint agrees with the Commission that the statutory fee schedule should be adopted for FY 1994 regulatory fees. Sprint further suggests that all annual fees should be calculated based on the relevant data effective on the first day of the applicable fiscal year.

Respectfully submitted,

SPRINT CORPORATION

By


Jay G. Keithley
Leon M. Kestenbaum
1850 M Street, N.W.
Suite 1100
Washington, DC 20036
(202) 857-1030

Kevin C. Gallagher
8735 Higgins Road
Chicago, IL 60631
(312) 399-2348

Its Attorneys

April 7, 1994

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 7th day of April, 1994, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" in the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, MD Docket No. 94-19, filed this date with the Acting Secretary, Federal Communications Commission, to the persons listed on the attached service list.


Melinda L. Mills

Richard Metzger, Acting Chief*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 500
Washington, DC 20554

Greg Vogt, Chief*
Tariff Division
Federal Communications Commission
1919 M Street, NW, Room 518
Washington, DC 20554

ITS*
1919 M Street, NW, Room 246
Washington, DC 20554

Joel Ader*
Bellcore
2101 L Street, NW, 6th Floor
Washington, DC 20037

Rudy Baca*
Legal Advisor
Office of Commissioner Quello
Federal Communications Commission
1919 M Street, NW, Room 802
Washington, DC 20554

Byron Marchant*
Sr. Legal Advisor
Office of Commissioner Barrett
Federal Communications Commission
1919 M Street, NW, Room 826
Washington, DC 20554

Diane Cornell*
Legal Advisor
Office of Chairman Hundt
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

* Indicates Hand Delivery